IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.558 OF 2005
IN
SUMMONS FOR JUDGMENT NO.78 OF 2003
IN
SUMMARY SUIT NO.2754 OF 2002

Bharat V.Shah .. Appellant
V/s
Vasumati R.Dedhia .. Respondent

WITH

APPEAL NO.559 OF 2005
IN
SUMMONS FOR JUDGMENT NO.42 OF 2003
IN
SUMMARY SUIT NO.2732 OF 2002

Bharat V.Shah .. Appellant
V/s
Kesarbai Maganlal Arjan .. Respondent

Mr.R.T.Parikh i/by M/s.Kiran Jain & Co. for the Appellants.
Mr.Sameer Virani for the Respondents.

CORAM: DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.

DATE : 14.03.2006.

P.C.:

1. Heard the learned Counsel for the parties. By these Appeals, the Appellant is challenging the orders dated 31st August, 2004 whereby the learned Single Judge has granted conditional leave to defend, by directing the Appellants to deposit Rs.50,000/- within a period of eight weeks in both the above suits. The learned Counsel for the Appellants has contended that the Promissory Notes were not executed at all by the Appellant and that there was no consideration with regard to the said Promissory Notes.

2. We have perused the xerox copies of the said Promissory Notes alongwith the admitted signature in the affidavit taken out in support of the Notice of Motion No.803 of 2006. Prima facie, in our view, both the signatures look alike. We also find that the Appellant was served with the notices of demand dated 4th March, 2002 and the learned Counsel for the Appellant does not dispute the address of Appellant which is shown as K.N.Building, Second Floor, 360, Bhandarkar Road, Above Pramanik Stores, Matunga, Mumbai - 400 019. The aforesaid notice has been duly served by Registered Post Acknowledgement Due and the Acknowledgement slip also indicate the same signature. To the aforesaid notices there were no replies filed by the Appellant till the filing of the suit on 30th July, 2002. It is apparent that the purported defence that the Promissory Notes were not executed by the Appellant, is clearly an afterthought. We are not inclined to interefere with the discretionary order of granting conditional leave to defend the suit. In fact the learned Single Judge has been extremely lenient to the Appellant in granting the conditional leave with a deposit of only Rs.50,000/- each in both the above suits. We find no merit in both the Appeals as there is no error or illegality in the impugned orders. Appeals stand dismissed with costs quantified at Rs.5000/- each of the above Appeals. Costs be paid within a period of one week from today.

3. The learned Counsel for the Appellant now seeks extention of time to make the deposit as per the orders of the learned Single Judge. Time is extended by four weeks from today.

(DR.S.RADHAKRISHNAN, J.)

(S.J.VAZIFDAR, J.)